

### **REMARKS/ARGUMENTS**

The Office Action mailed October 17, 2005, has been received and its contents carefully considered. Reexamination and reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 2-4, 6-8, 10, and 11 were rejected as being unpatentable over Johnston et al. taken together with Kostyniak et al. This rejection is respectfully traversed. Without conceding the propriety of the rejection, claim 11, the sole independent claim, has been amended to recite that the side walls are entirely formed of plastic and that the plastic contains a biocide additive, that the series of pipes are entirely formed of plastic where the plastic contains the biocide additive, that the nozzles are entirely formed of plastic wherein the plastic contains the biocide additive, and that the cooling inserts are entirely formed of plastic wherein the plastic includes the biocide additive. It is respectfully submitted that such a combination is neither taught nor suggested by Johnston et al. or Kostyniak et al.

Turning first to Johnston et al., it will be appreciated that this patent is directed to fluid control films. Further, this application refers to films, sheets, layers, and tapes. However, Johnston et al. is not understood to disclose or suggest any entire components that are made completely over plastic material having a biocide therein. Further, nothing in Johnston et al. is seemed to teach or suggest manufacturing components for cooling towers, including the components recited in claim 11 entirely from a plastic material having such an additive.

Kostyniak et al. fails to remedy the deficiencies of Johnston et al. Initially, Applicant notes that the majority of the Kostyniak et al. description relates to coating of items. This disclosure of using Kostyniak's et al. material as a coating clearly teaches away from manufacturing an entire component from a plastic material having the biocide as recited in claim 11. Further, although Kostyniak et al. mentions incorporating the micromicrobial agent into plastics for making products, Kostyniak et al. is particularly silent as to the use of these with respect to cooling towers. To the contrary, when referring to cooling towers specifically, at Col.

8, lines 64-68, Kostyniak et al. suggests adding an antimicrobial agent to the water in the cooling towers or including it in a coating that is used to coat the surface in cooling towers. (emphasis added.) Thus, the disclosure of Kostyniak et al. would teach one skilled in the art to modify the water at cooling towers, or to coat cooling towers, instead of manufacturing components for cooling towers entirely from a plastic having a biocide therein as recited in claim 11.

In view of the foregoing, applicants respectfully submits that each and every element as set forth in amended claim 11 is neither taught nor suggested by Johnston et al. nor Kostyniak et al.

Claim 9 was rejected as being unpatentable over Johnston et al. in view of Kostyniak et al., and further in view of Yaeger et al. Claim 9 is believed allowable for at least the reasons given above with respect to claim 11. Further, it is respectfully submitted that the Office Action is impermissibly picking and choosing disclosure from Yaeger et al. without identifying the specific teachings in any of the references themselves to support a combination of the three references as proposed by the Examiner.

The remaining dependent claims are believed allowable for at least the reasons given above with respect to amended independent claim 11.

Entry of this Amendment after final rejection is respectfully requested. It is respectfully submitted that even though claim 11 is amended, no new claims are being added, and the issues in the case are well developed such that the amendments presented should not place an undue burden on the Examiner for undue further search or examination.

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. Should the Examiner believe that a telephone conference would be helpful in expediting prosecution of the application; the Examiner is invited to telephone the undersigned at 202-861-1696.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. **87433.2522**.

Respectfully submitted,

BAKER & HOSTETLER LLP



Leo J. Jennings  
Reg. No. 32,902

Date: February 21, 2006  
Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Phone: (202) 861-1500  
Fax: (202) 861-1783